

ORIGINAL

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 23 pages, 0 exhibits

4 MYRON WARD

5 Plaintiff, Civil Action No. 04-11E

6 v. Judge McLaughlin

7 JOHN LAMANNA, et al., Magistrate Judge Baxter

8 Defendants,

9

10 Deposition of MYRON WARD, plaintiff, by Notice, by
11 defendants, on November 1, 2006, set for 2:00 p.m., before
12 Barbara D. Watts, Notary Public for the State of Virginia at
13 Large, on FCI Petersburg Low, Federal Correctional
14 Institution, 1100 River Road, Hopewell, VA 23860.

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20 Accu-Beta Court Reporters & Videographers, Inc.

21 2006 Sycamore Creek Drive

22 Manakin-Sabot, VA 23103

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1 all counsel and paralegal appear via video-teleconferene

2 Byran Baumann, Esq.

3 Maureen Watson, paralegal

4 KNOX, McLAUGHLIN, GORNALL & SENNETT, P.C.

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11 Western District of PA

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16 counsel for defendants

17

18 Douglas Goldring, Esq.

19 counsel, Bureau of Prisons

20

21 present with court reporter:

22 Myron Ward, defendant

23 Cornelia Janven, staff person, FCI, Petersburg

24

1 MYRON WARD, plaintiff, called by the
2 defendants, first being duly sworn, deposes and
3 says, viz:
4

5 DIRECT EXAMINATION

6 BY MR. COLVILLE:

7 Q Good afternoon, Mr. Ward, my name is
8 Mike Colville. I'm the Assistant U.S. Attorney
9 assigned to defend the lawsuit that you filed
10 concerning the allegation that you were injured or
11 suffered an injury while employed with Unicor, at
12 FCI McKean.

13 The purpose of the deposition is for
14 me to gather some facts from you about what
15 happened, what you were doing and how it is you
16 believe you were injured.

17 Again, wait for me to finish the
18 question. Pause a moment before you start to
19 answer; then answer. If you don't understand the
20 question, let me know and I will reask it, or we
21 will figure a way around it. But I'm going to
22 assume if you answer the question you understood it.

23 With those ground rules in place,
24 let's go forward. Let me begin by telling you that

1 my records indicate that you worked in Unicor for
2 about seven months and I have records which indicate
3 you worked at Unicor beginning April 9 of 2002 up
4 until October 17, '03, when you were transferred out
5 of McKean. Is that about what your recollection is
6 concerning your employment in Unicor?

7 A Yes. That sounds accurate.

8 Q I want to talk about two basic
9 areas, the first being what you did at Unicor; the
10 second area I want to talk about your injuries.
11 Let's now focus on your employment at Unicor. Can
12 you describe in your own words, summarize for me
13 what you did when you heard employed there?

14 A When I was in Unicor, I worked two
15 different shifts. I start with the first; I started
16 off working day shift. I was working on machine
17 called the cold press. It was, what they did was
18 once the boards, large boards, particle boards,
19 microboards, leave the panel saw they bring them
20 over to the cold press to apply a glue-like
21 substance. Then we add like a Formica or wood grain
22 top, whatever the order calls for. We take them,
23 after we apply the top, stack them on the pallet,
24 and move them to the next section of the factory.

1 When not busy in that area they have us help out in
2 other areas, wherever they send us to.

3 Q When you weren't working the cold
4 press--

5 A I couldn't hear you.

6 Q The cold press, is that how you--

7 A C O L E.

8 Q Cold press. Okay. When you weren't
9 working where during the day shift where else? What
10 other areas on the factory floor?

11 A I work usually stacking down from
12 the panel saw. Once they cut the boards down on the
13 panel saw, they have a few guys to help take the
14 boards down, stack them on the pallet, move them to
15 the next section, and when they drill they drill
16 different boards, stack down from each machine. We
17 go to where the glue machine is at, basically just
18 stacking down boards when we weren't busy packing or
19 help in the packing area.

20 Q During this time when you were on
21 the day shift, did you ever actually physically work
22 with the boards or assist the person who was either
23 working the router or the saws, when they cut the
24 microboard or tack board or whatever?

1 A Yes. Those are the areas I was
2 speaking about. They cut it on the panel saw from
3 the large portion. They cut it down into smaller
4 boards, then it moves to the router, and other
5 different machines when they rout them and drill
6 them. I help stack down on all those machines.

7 Q I understand that. My question is a
8 little more specific. We have had some testimony
9 from some other individuals who said they worked
10 with the person operating the saw, they would hold
11 the board while it was being cut or while they were
12 being routed. My question to you, did you ever do
13 that job, that is, holding the boards while they
14 were being routed, or was your job just merely to
15 stack the boards once all that had been completed?

16 A No. I never operated the machine.
17 Just stacking down right next to the machine.

18 Q Did you ever have an opportunity to
19 observe the panel saw when it was cutting the
20 microboards?

21 A Yes.

22 Q When they were cutting it, do you
23 recall how many boards at a time were being cut on
24 the machine itself in any one time?

1 A The most I have seen was nine, but
2 it is usually always more than five.

3 Q Just so I'm clear, understand what
4 you are saying you are telling me, they would stack
5 five boards, maybe up to nine boards on the panel
6 saw, cut they all at one time?

7 A Yes.

8 Q How big a board or how thick of a
9 board were they cutting at that time. You saw them
10 nine high.

11 MR. BAUMANN: If you know.

12 A I couldn't tell you the measurement.
13 I don't really know the measurements. Let me see,
14 the size.

15 Q Were they the same boards you were
16 stacking?

17 A About the size of a doorway, about
18 that long, maybe a little longer.

19 Q How thick?

20 MR. BAUMANN: If you are able.

21 A I don't know the measurements.

22 MR. BAUMANN: If you don't know, we
23 don't want you to guess.

24 A I couldn't tell you right now.

1 Q Just so we are clear though, are you
2 positive you saw nine boards being stacked at one
3 time, being cut at one time on the panel saw?

4 A Yes, sir.

5 Q When you saw this happening, did you
6 notice whether or not the panel saw had attached to
7 it a dust collection system that sucked up the dust
8 that was created when the boards were cut?

9 MR. BAUMANN: Object to form. You
10 can answer.

11 A I don't really know what the dust
12 collection system looked like. I know it had tubes
13 on it.

14 BY MR. COLVILLE:

15 Q Do you know if the machines were
16 fitted with any dust collection.

17 MR. BAUMANN: Same objection. You
18 can answer if you know.

19 A I couldn't hear the question. It
20 broke up.

21 BY MR. COLVILLE:

22 Q Never mind. I will pull back. I
23 will change my line of questioning.

24 How long did you work the day shift

1 when you were employed with Unicor?

2 A About I want to say six months,
3 probably six months. Then I transferred to the
4 night shift.

5 Q Who was your immediate supervisor
6 when you were on the day shift?

7 A I can't remember his name right
8 offhand. It was like three years ago. I don't
9 remember his name.

10 Q How long did you work on the night
11 shift?

12 A I worked on the night shift. Once I
13 transferred to the night shift, I worked there until
14 I left in October 2003.

15 Q So about a month?

16 A Not more than a month. I was in
17 Unicor like a year and six months, a year and five
18 months.

19 Q I'm sorry. I have you working seven
20 months. You are more than that. You were a year
21 and six months.

22 A Yes.

23 Q You worked at the night shift for a
24 little over a year?

1 A Yes, sir.

2 Q Is that true? Okay. When you
3 worked the night shift, what were your job
4 responsibilities?

5 A I was assigned to assembly area. My
6 duties there were--

7 Q What did you do in that area?

8 A Basically assembly area consists of
9 the router and the packing area, so I stacked down
10 boards from the routers and the different curve
11 machines, what they call them, I also worked in the
12 packing area, help preparing everything once it is
13 complete to be shipped out, same thing, help out in
14 other areas when it wasn't busy.

15 Q At any time during your employment
16 with Unicor, either on the day or shift shift, did
17 you actually operate the router or operate the panel
18 saw?

19 A I never operated any of the
20 machines; just helping out, stacking down.

21 Q At any time during your employment,
22 either on the day shift or shift night, did you ever
23 wear the dust masks that others have talked about?

24 A Yes. I wore a dust mask.

1 Q How long would you wear a dust mask
2 during the period of time when you were employed at
3 Unicolor?

4 A How long? In hours? I don't
5 understand the question.

6 Q I'm trying to figure out, I guess
7 what I want, one, did you wear a dust mask while
8 working on the factory floor? If so, how many times
9 or did you always, trying to get a sense when you
10 would have worn the dust mask.

11 A Usually when I am working with
12 certain chemicals I might put it on because I work
13 the area. In the packing area we had to spray some
14 type of ammonia type stuff on the tables to clean
15 them after they finish being processed. That was
16 usually the only time. Maybe a few other times when
17 it was a lot of dust in the air.

18 Q Did you ever wear the dust mask when
19 boards were coming off the pan or the panel saw or
20 the router?

21 A Sometimes. It wasn't required.

22 Q I'm sorry. I didn't understand that
23 last part.

24 A I say sometimes it wasn't.

1 Sometimes it wasn't required.

2 Q I see. On the occasion you did, why
3 would you wear it?

4 A Because of the dust in the air or
5 the chemicals that I was working with. I figured it
6 protect me.

7 Q Can you describe what the dust was
8 like, on the occasions you wore the dust mask?

9 A Particle board, the particle board
10 was like wood dust. When they usually cut it, it
11 shoots into the air when it is coming off the saw.
12 They have the air hose blowing to keep the saw blade
13 clear to make a clean cut, I believe. It was like
14 wood, colored wood, chopped wood. The microboard
15 was more like drywall. When you break drywall, it
16 was white, chalky like substance.

17 Q Who was your immediate supervisor
18 when you worked the night shift?

19 A Rob Bevivino.

20 Q Was Mr. English also your supervisor
21 at that time?

22 A Yes, he was the head foreman for the
23 night shift. It was three foremans there.

24 Q So Mr. Bevivino reported to

1 Mr. English?

2 A Yes.

3 Q So, as I understand it when you were
4 on the night shift for a little bit over a year, the
5 main focus of your responsibility was packaging the
6 product and when you weren't busy packaging then you
7 were used as needed elsewhere on the workroom floor.
8 Is that an accurate description?

9 A I worked the assembly area. Yes, I
10 worked stacking down, it was about even really. It
11 wasn't doing one more than the other. I stacked
12 down half the time. Half the time I worked in the
13 packing area.

14 Q Let me ask you to talk a little bit
15 about your injuries that you claim by working on the
16 factory floor. Let me ask you first to list all the
17 symptoms and injuries that you claim were caused by
18 your working on the factory floor. I will write
19 down them. Then we will go back and talk a little
20 more after you list them. If you do that, tell me
21 all the symptoms and the injuries that you caused as
22 a result of you having to work on the factory floor.

23 A I had headaches, episcleritis in my
24 eye, conjunctivitis.

1 Q What was the term?

2 A You are breaking up.

3 Q I couldn't hear the term you used.

4 A Episcleritis.

5 Q Could you spell that?

6 A Huh?

7 Q Could you spell it?

8 A E P I S C L I R I T U S, I believe.

9 That is close as I can get. It is in my medical
10 records.

11 Q What else? Headaches, EP rights
12 rights?

13 A Conjunctivitis. I had what is
14 called lymph nodes. Chronic sinusitis. Rumenitis.
15 Nasal swelling. Nasal soreness. And uncontrollable
16 coughing. Dermatitis. Respiratory problems. That is
17 about all I can remember right off the top of my
18 head without any medical records in front of me.

19 Q Mr. Ward, of all those symptoms and
20 injuries you have outlined, do you currently have
21 any of those symptoms or injuries that you are
22 presently suffering from today?

23 A Yes, sir.

24 Q Can you tell me which ones?

1 A Still have chronic sinusitis, the
2 nasal swelling, nasal soreness, and the coughing. I
3 believe that might be about it.

4 Q Have you actually had a formal
5 diagnosis of chronic sinusitis?

6 A Yes, sir.

7 Q Who diagnosed you with that
8 condition?

9 A Medical staff here at Petersburg and
10 medical staff in FCI McKean.

11 Q Did you have chronic sinusitis prior
12 to being incarcerated at McKean or prior to working
13 at Unicor?

14 A No, sir.

15 Q What about swelling and soreness?
16 Tell me a little bit about that, a little more
17 detail.

18 A Nasal swelling?

19 Q Yes.

20 A Basically--

21 Q What do you mean by that?

22 A Inside my nasals, swollen, usually
23 at night, both of my nasal passages are closed up.
24 So I am mostly breathing out of my mouth. When I

1 wake up in the morning, one side might clear up,
2 become unswollen, but they stay swollen, but I can
3 breathe out of one side basically all day.

4 Q Are you receiving medication for
5 that or any current treatment from the medical
6 staff?

7 A Yes, sir. It is called fluensilizer
8 {phonetic}, steroid nose spray, is the strongest
9 thing they can give me --

10 Q Why is that?

11 A The strongest thing they can give
12 me.

13 Q What about the coughing that you
14 described? Tell me about that.

15 A The doctor explained it. He said
16 because my passages are clogged up, the mucous and
17 stuff runs down my throat and causes me to cough a
18 lot.

19 Q Is there a certain time of day you
20 cough more than others, or is it pretty consistent
21 throughout the day?

22 A More at night when I'm laying down.

23 Q How about with the swelling, nasal
24 swelling and soreness? Is it more in the morning or

1 present each throughout the day.

2 A My nasals stay swollen. They never
3 really go all the way down, but it gets worse as I
4 get in a still position.

5 Q Have your headaches pretty much
6 resolved?

7 A I get them sometimes.

8 Q The conjunctivitis, that has to do
9 with your eyes; does it not?

10 A Yes, sir.

11 Q Did you have problem with
12 conjunctivitis prior to working at Unicor?

13 A I might have had it one other time.
14 I'm not sure.

15 Q Why don't you tell me a little bit
16 about the problem you have with your lymph nodes.
17 What was the problem there?

18 A Well, when I was in McKean is when I
19 first went in and got checked for any nasal problems
20 they discovered lymph nodes on my neck. When I
21 arrived in Petersburg, the specialist recommend that
22 he take them out so he can examine them. So I had
23 to go through a surgical operation.

24 Q Did they do that?

1 A Yes. I went through a surgical
2 operation to have them surgically removed.

3 Q When was the surgery performed?

4 A You broke up. I couldn't hear you.

5 Q Where was the surgery performed?

6 A In Southside Regional Hospital.
7 They took me out.

8 Q Do you remember the name of the
9 physician who performed the surgery?

10 A I couldn't tell you that.

11 Q When they took the lymph nodes out,
12 did they do a biopsy on the lymph nodes? Do you
13 know?

14 A Yes. It was lymph node biopsy.

15 Q What did they find, if you know?

16 A I believe he said it wasn't
17 cancerous, I believe.

18 Q Did anybody tell you what caused the
19 problem with the lymph nodes?

20 A They said usually some type
21 infection or you been infected by a substance or
22 something that the body don't-- I don't really
23 know. I can't remember exactly what they said.

24 Q You mentioned a respiratory problem.

1 Can you tell me a little bit about that?

2 A Usually it has to do with, I guess,
3 all this combined, the sinus problem and nasal
4 swelling, I can't really breathe properly. When I
5 am trying to exert a lot of energy, I can't exert a
6 lot of energy like I used to, without running out of
7 breath, anything strenuous.

8 Q Are you currently working at the
9 facility where you are incarcerated at?

10 A Yes, sir.

11 Q What do you do there?

12 A I work in the print factory, a clerk
13 in the print factory.

14 Q Has the respiratory problem resolved
15 itself?

16 A Has it resolved itself?

17 Q Has the respiratory problem resolved
18 itself?

19 A No. I still have respiratory
20 problems. I forgot to mention it when you asked.

21 Q Are you currently receiving
22 treatment or medication for the respiratory
23 problems?

24 A No. Only thing I receive is the

1 fluensulate {phonetic} and saline nose spray, like
2 sinus tablets I have to purchase at the commissary.

3 Q The medications, do they help?

4 A No. They might work for when I
5 first use them. After about 30 minutes, same thing
6 again.

7 Q Other than the specialist you saw
8 for the lymph nodes, have you been sent to any other
9 specialist outside of the Bureau of Prisons system?

10 A No. That was the only time I been
11 to the outside hospital.

12 Q Has anyone ever taken a chest X ray
13 of you?

14 A No, sir.

15 Q Mr. Ward, do you smoke?

16 A No, sir.

17 Q Have you ever smoked?

18 A No, sir.

19 Q Were you present during the OSHA
20 inspection at FCI McKean?

21 A They came during the day shift
22 hours. I was working on the night shift then.

23 Q That is all I have. Thank you,
24 Mr. Ward.

1 A Okay.

2

3 CROSS EXAMINATION

4 BY MR. BAUMANN:

5 Q Mr. Ward, you testified about a
6 surgical procedure to your lymph nodes. I think you
7 said occurred at Southside Regional Hospital.

8 A Yes, sir.

9 Q Do you know where that is located?

10 A No.

11 Q What city and state?

12 A It is in Virginia. Is in my medical
13 records but I don't remember the exact city it is
14 in. It not far from here. About 20 minutes from
15 Petersburg.

16 MR. BAUMANN: Okay.

17 SIGNATURE IS DISCUSSED AND NOT

18 WAIVED.

19 TIME: 2:36 p.m.

20

21

22

23

24

1 ERRATA

2 I, Myron Ward, certify I have read
3 my deposition of November 1, 2006, and such is
4 complete and accurate except as listed below.

5 Each page of corrections is signed.

6 Now is Should be Reason

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 Witness _____

18

19 Sworn to and subscribed before me, _____

20 _____, Notary Public for the State of

21 Virginia at Large.

22 My commission expires _____, 20____.

23 Witnessed this _____ day of _____, 2006.

24 _____ Notary Public

1 STATE OF VIRGINIA
2 COUNTY OF GOOCHLAND

3

4 CERTIFICATE OF NOTARY PUBLIC

5

6 I, Barbara D. Watts, Notary Public
7 for the State of Virginia at Large, certify I
8 reported the foregoing and such is complete and
9 accurate to the best of my ability.

10 The witness, who was sworn by me,
11 did not waive signature.

12 I am not related to any counsel,
13 party, or witness, and have no interest in the
14 outcome of this matter.

15 My commission expires May 31, 2009.

16 Given under my hand this 7th day of
17 November, 2006.

18 Barbara D. Watts

19 Barbara D. Watts, Notary Public

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